

**STATE OF TENNESSEE**  
**PUBLIC CHAPTER NO. 142**  
**SENATE BILL NO. 1359**

**By McNally**

Substituted for: House Bill No. 1367

By Fitzhugh

AN ACT to amend Tennessee Code Annotated, Sections 4-29-236(a)(6), 8-25-103, 8-25-104(a)(4), 8-25-105, 8-34-101(21), 8-34-321, 8-34-401, 8-34-402, 8-34-403, 8-34-604(c), 8-34-619, 8-35-404, 8-36-123(b); and Title 8, Chapter 34, Part 6, and Title 8, Chapter 36, Part 5, relative to pensions and compensation programs for public officers and employees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-29-236(a)(6), is amended by deleting the same in its entirety.

SECTION 2. Tennessee Code Annotated, Section 8-34-101(21), is amended by deleting the same in its entirety and by substituting instead the following:

(21) "Medical advisors" means the physicians provided for in Part 4 of this chapter;

SECTION 3. Tennessee Code Annotated, Section 8-34-401, is amended by deleting the same in its entirety and by substituting instead the following:

The board of trustees shall contract with at least one (1) but no more than three (3) physicians who are not eligible to participate in the retirement system to serve as medical advisors.

SECTION 4. Tennessee Code Annotated, Section 8-34-402, is amended by deleting the words "medical board" and by substituting instead the words "medical advisors".

SECTION 5. Tennessee Code Annotated, Section 8-34-402, is further amended by deleting the words "its conclusions" and by substituting instead the words "their conclusions".

SECTION 6. Tennessee Code Annotated, Section 8-34-403, is amended by deleting the words "members of the medical board" and by substituting instead the words "medical advisors".

SECTION 7. Tennessee Code Annotated, Title 8, Chapter 36, Part 5, is amended by deleting the words "medical board" wherever they may appear and by substituting instead the words "medical advisors".

SECTION 8. Tennessee Code Annotated, Section 8-25-103, is amended by adding the following new subsection at the end thereof:

(e) The provisions of subsections (b) and (c) of this section shall not apply to deferred or tax-sheltered compensation plans maintained on behalf of employees of institutions of higher education pursuant to § 403(b) of the Internal Revenue Code. The chancellor of the board of regents shall serve as trustee for any 403(b) plan maintained on behalf of employees of institutions thereunder, and the president of the University of Tennessee shall serve as trustee for any 403(b) plan maintained on behalf of employees of institutions thereunder. The responsibility for approving any company providing investment or administrative services under any such 403(b) plan shall rest with the chancellor of the board of regents for any 403(b) plan maintained on behalf of employees of institutions thereunder, and with the president of the University of Tennessee for any 403(b) plan maintained on behalf of employees of institutions thereunder.

SECTION 9. Tennessee Code Annotated, Section 8-25-104(a)(4), is amended by adding the following new sentences at the end thereof:

The provisions of this subdivision (4) shall not apply to deferred or tax-sheltered compensation plans maintained on behalf of employees of institutions of higher education pursuant to § 403(b) of the Internal Revenue Code. Any such 403(b) plans shall be operated under the terms and conditions set out in contracts entered into by the chancellor of the board of regents for any 403(b) plan maintained on behalf of employees of institutions thereunder, and by the president of the University of Tennessee for any 403(b) plan maintained on behalf of employees of institutions thereunder.

SECTION 10. Tennessee Code Annotated, Section 8-25-105, is amended by adding the following new sentences at the end thereof:

The provisions of this section shall not apply to deferred or tax-sheltered compensation plans maintained on behalf of employees of institutions of higher education pursuant to § 403(b) of the Internal Revenue Code. The chancellor of the board of regents for any 403(b) plan maintained on behalf of employees of institutions thereunder, and the president of the University of Tennessee for any 403(b) plan maintained on behalf of employees of institutions thereunder shall be responsible for investing the monies held pursuant to any such plan in investment options that meet the applicable requirements of the Internal Revenue Code.

SECTION 11. Tennessee Code Annotated, Section 8-34-321, is amended by deleting the figures "2012" in the last sentence thereof and by substituting instead the figures "2014".

SECTION 12. Tennessee Code Annotated, Section 8-34-604(c), is amended by deleting the words "general employees" and by substituting instead the word "employees".

SECTION 13. Tennessee Code Annotated, Section 8-34-619, is amended by deleting the same in its entirety.

SECTION 14. Tennessee Code Annotated, Section 8-36-123(b)(2), is amended by deleting the figures "§§ 8-36-503 – 8-36-507" and by substituting instead the figures and word "§§ 8-36-503 – 8-36-505 and § 8-36-508".

SECTION 15. Tennessee Code Annotated, Section 8-36-123(b)(3), is amended by deleting the figures "§ 8-36-501(c)(4) – (7)" and by substituting instead the figures and word "§ 8-36-501(c)(4) – (5) and § 8-36-501(c)(7)".

SECTION 16. Tennessee Code Annotated, Title 8, Chapter 34, Part 6, is amended by adding the following new, appropriately designated section:

8-34-6\_\_.

(a) In the event the regularly scheduled hours of work per month for any full-time officer or employee of the state are reduced on a non-permanent basis by no more than thirty percent (30%) pursuant to a statute, executive order or action of such officer or employee's appointing authority done by reason of reductions in funding levels, the amount of service and salary credit that such officer or employee would have otherwise received in the retirement system had the scheduled hours not been reduced shall continue to be included for purposes of computing retirement, death and disability benefits as provided under Chapters 34-37 of this title. The employers of such officers and employees shall be responsible for reporting to the retirement system the additional service and salary, and for the payment of the employer and employee contributions attributable to such additional service and salary. The director of the division of retirement shall prescribe procedures for the reporting of such additional service and salary, and for the payment and remittance of the contributions to the retirement system. The provisions of this subsection (a) shall have retroactive application to January 1, 2009.

(b) For the purposes of subsection (a), "officer" and "employee" means any officer or employee of the state, any member of the general assembly, or any employee employed in a Tennessee public institution of higher education.

(c) Any employer participating in the retirement system pursuant to Chapter 35, Part 2, of this title that reduces on a non-permanent basis the regularly scheduled hours of work by no more than thirty percent (30%) per month for its full-time officers, employees or teachers pursuant to a resolution or ordinance of its chief governing body, which was enacted by reason of shortage of funds, may authorize the provisions of subsection (a) for all its affected full-time officers, employees and teachers upon the adoption of a resolution by its chief governing body

authorizing and accepting the liability therefor. Any such resolution authorizing the provisions of subsection (a) shall set forth the date on which the resolution shall be effective. The effective date may be made retroactive to January 1, 2009, or on the first day of any month thereafter.

(d) This section shall cease to be effective on June 30, 2011.

SECTION 17. Tennessee Code Annotated, Section 8-35-404(b), is amended by adding the following new subdivision at the end thereof:

(3) In the event the regularly scheduled hours of work per month for any full-time employee participating in the optional retirement program established pursuant to this part are reduced on a non-permanent basis by no more than thirty percent (30%) pursuant to a statute, executive order or action of such employee's appointing authority done by reason of reductions in funding levels, the amount of earnable compensation that such employee would have otherwise received had the scheduled hours not been reduced shall be taken into account in determining the employer contributions pursuant to subdivision (b)(1) of this section, subject to the limitations contained in subdivision (b)(2) of this section. The provisions of this subdivision (b)(3) shall have retroactive application to January 1, 2009, and shall cease to be effective on June 30, 2011.

SECTION 18. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 19. This act shall take effect upon becoming a law, the public welfare requiring it.

**PASSED: April 16, 2009**

  
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RON RAMSEY  
SPEAKER OF THE SENATE

  
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KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES

**APPROVED this 5th day of May 2009**



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PHIL BREDESEN, GOVERNOR